

January 09, 2002

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street SW
Room TW-B204
Washington DC 20554

Re: ***CC Docket No. 01-321 / Notice of Proposed Rulemaking for evaluating a select group of wholesale performance measures for special access Initial Comments of the Illinois Commerce Commission***

Dear Secretary Salas:

On November 19, 2001, the Commission released a Public Notice in the above-captioned matter. The Commission specifically sought comment on whether the Commission should adopt a select group of measurements and standards for evaluating incumbent local exchange carrier (incumbent LEC) performance in the provisioning of special access services. In response to the Public Notice and in accordance with Section 1.51(c) of the Commission's rules, 47 C.F.R. §1.51(c), the Illinois Commerce Commission ("ICC") submits its Initial Comments for inclusion in the public record.

Need for Special Access Performance Measures

The ICC supports the need for this proceeding, and commends the Commission for identifying the need and seeking further input. The ICC, however, believes that any potential set of national performance measures for special access services should serve as a default set of requirements for states that either: (1) have not undertaken the task of establishing special access performance measures; or (2) simply elect to adopt the national set of special access performance measures. The Illinois General Assembly recognized the importance of this issue and recently amended the Illinois Public Utilities Act by adding Section 13-712(g), which provides as follows: "The Commission shall establish and implement carrier to carrier wholesale service quality rules and establish remedies to ensure enforcement of the rules." 220 Ill. Comp. Stat. 5/13-712(g) (P.A. 92-0022, effective June 30, 2001).

In accordance with the aforementioned mandate by the Illinois General Assembly, the ICC initiated Docket No. 01-0539 to establish the required rules regarding wholesale performance measures. Since the initiation of the rulemaking proceeding, the ICC has held several workshops where interested parties were present and helped identify several important issues regarding wholesale performance measures for special access provisioning.

There are parties, primarily CLECs and wireless carriers, who believe special access services should be subject to wholesale performance measures and associated remedies. ILECs generally do not believe special access wholesale performance measures are necessary, or believe that the ICC does not have jurisdiction in the matter. These positions are somewhat complicated by the fact that wireless carriers also believe long distance carriers, frequently also CLECs, should be held accountable to wholesale performance measures and remedies, to the extent those long distance carriers also provide special access. The ICC has not yet had the opportunity to decide these issues since it is still early in the rulemaking process, but will eventually be evaluating and ruling on all the pertinent issues relating to special access provisioning performance measures. Therefore, the ICC will respectfully decline to comment on the substantive issues in the NPRM.

The ICC understands that minimizing regulatory burden is a necessary goal, so it is not quick to advocate special access wholesale performance measures and associated remedies. However, the ICC believes, as does the Illinois General Assembly, that “listening to the marketplace” should be a prime factor in this decision making process. Special access facilities are affected with a public interest if carriers must have them to compete, thereby, making them an important component to a healthy competitive marketplace. Once again, the ICC commends the Commission for addressing wholesale performance measures and remedies for special access.

Sincerely,

/s/ *Thomas G. Aridas*

Myra Karegianes
General Counsel and
Special Assistant Attorney General

Thomas G. Aridas
Special Assistant Attorney General
160 N. LaSalle, Suite C-800
Chicago, Illinois 60601
(312) 793-2877

Counsel for the
Illinois Commerce Commission

cc:

Hon. Chairman Michael K. Powell
Hon. Comm. Gloria Tistani
Hon. Comm. Kathleen Q. Abernathy
Hon. Comm. Michael J. Copps
Hon. Comm. Kevin J. Martin
Carmell Weathers, Network Services Division
Sanford Williams, Network Services Division